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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,099	01/16/2004	Paul Marcius Butterfield	117435	4975
27074	7590	12/12/2007		
OLIFF & BERRIDGE, PLC. P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			EXAMINER ZHU, RICHARD Z	
			ART UNIT 2625	PAPER NUMBER
			NOTIFICATION DATE 12/12/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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jarmstrong@oliff.com

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/758,099

Applicant(s)

BUTTERFIELD ET AL.

Examiner

Richard Z. Zhu

Art Unit

2625

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Detailed Action.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

KING Y. POON

SUPERVISORY PATENT EXAMINER

## DETAILED ACTION

### *Response to Applicant's Argument*

The applicant's arguments had been duly considered, however, they are unpersuasive following a further review of the references applied.

It appears that *Hubble* disclose the application of the spectrophotometer, which performs spectrophotometer analysis of the registration patch on a detected color value detected, applies said technology in term of color correction instead of color misregistration. With that said, however, *Hubble* also discloses that the main purpose of the invention was to provide a small, compact, simple, easily made, and low cost spectrophotometer that can dynamically measure images on paper without stopping or unduly constraining the paper like conventional system (Col 13, Rows 58-67) and that the novel concept is not limited to color correction only (Col 4, Rows 58-64) and can be applicable to other color control Techniques such as color misregistration (Col 3, Rows 35-56).

Furthermore, the interview summary of record on 09/17/2007 merely indicated that the examiner will further consider the references applied and perform an updated search in view of the amendment made to the independent claim. The examiner should address the limitations added as of amendment made on 09/18/2007 to clear any misconception.

The limitation, as amended, recites "determining if color misregistration has occurred based on a detected color value detected by the spectrophotometric analysis of the registration patch". With respect to this limitation, please refer to *Castelli* (Col 6, Rows 30-55) which incorporate the MOB sensor of *Je Jong* (US 5287162 A) to measure color misregistration to determine if color misregistration has occurred based on a detected color value detected by the

spectrophotometric analysis of the registration patch (*Je Jong*, Col 8, Rows 20-34 and *Castelli*, Col 6, Rows 30-55 where it is disclosed that the sensor used to measure color to color registration errors are measured in the visible range of the light spectrum. As such, it comprises RGB filters to detect color to color misregistration of CMYK, see Col 6, Rows 37-45. Such operation necessarily entails measuring the color values in term of wavelength to distinguish between Cyan, Magenta, Yellow, and Black as disclose by *Hubble* in Col 17, Rows 6-14. It is true that *Castelli* determine if misregistration error had occurred base on timing but it is also true that without detecting the color values using the RGB filters to measure the relative positions of the CMYK registration marks, such registration error measurement would be impossible). As such, *Castelli* in view of *Hubble* meet the limitation as recited in the amendment and the rejections made under 35 USC 103 are maintained.